

**REMARKS**

Amendment C does not raise any new issues, nor does the Amendment introduce “new matter.” Claim 1, the only independent claim, has been revised by the introduction of the term “slightly elastic” in referring to the nature of the unique insulating sleeve. Claims 7-8 have been cancelled, so only claim 1, and dependent claims 2-5, remain in contest.

Attorney for applicant notes that the Examiner has not provided an Abstract, or a partial translation, for his characterization of the primary reference, i.e. the German patent publication to Hoffmann (DE 29913627). The absence of such supporting document is at variance with the requirements of MPEP 706.02, clause II.

A partial translation of Hoffmann, supplied by the applicant, reveals that such German patent does not disclose “an insulating sleeve for a drinking glass...”, nor is the stand, or support, of Hoffmann comprised of “slightly elastic insulating material,” as set forth in claim 1, as amended. Additionally, the “insulating material” in Hoffmann is not “slightly elastic”, and thus cannot stretch to accommodate bowls of different sizes, as set forth in claim 5. Hoffmann also lacks any suggestion regarding a band, in use, stretching about the bowl of the glass, as noted in claim 4.

As amply demonstrated by the attached partial translation, identified as Exhibit A, the body (2) of the Hoffmann stand is made of a solid material (see page 3, lines 22-25), or a solid or hollow material (see page 4, lines 25-27). The specific solid materials that are used in Hoffmann are described at page 2, lines 20-23 and at page 4, lines 25-27. Furthermore, in the portion of the cited Hoffmann document, appearing at page 3, line 27 - page 4, line 2, the specific materials used by Hoffmann are glass, acrylics, plastics, artificial stone, natural stone, clay, ceramic, porcelain, and stainless steel. All of these materials are rigid and inflexible in nature, in contrast to applicant's slightly elastic insulating sleeve which conforms to the glass, and snugly receives the glass therein. The term “slightly elastic” appears in the application, as filed - see, for example, page 7, line 27.

The partial translation has been prepared by Phillip Orth, a technical assistant in the patent law firm of Cullens in Brisbane, Australia. Mr. Orth is fluent in spoken German, as well as technical German, and has extensive experience in patent prosecution matters. Cullens are the instructing principals for the applicants, who are Australian citizens.

The Examiner's reliance upon Hoffmann is misplaced, for Hoffmann clearly does not teach, or suggest, all of the unique features of applicant's slightly elastic insulating sleeve, as reflected in the claims of record, namely, claims 1-5. Since the material(s) employed by Hoffmann are inflexible, the opening(s) in the stand or support cannot temporarily be expanded, and then reduced in size, to allow passage of stem and foot portions of the glass. Consequently, combining the rigid, inflexible device disclosed in Hoffmann with an elongated, releasable closure as taught by Mogil, would not anticipate applicant's slightly elastic insulating sleeve, for the body of the "combined" device would still be rigid, in stark contrast to applicant's slightly elastic insulating sleeve that fits snugly about a bowl of a wine glass, the band that fits around the upper edge of the bowl, etc.

Attorney for applicant further asserts that a person of ordinary skill in the art to which the invention pertains, i.e., insulating receptacles for drinking, would have no reason (teaching, suggestion or motivation) for combining the disclosure of Hoffmann with the secondary citation to Mogil to add an elongate releasable closure means extending from the opening, and adjacent to, but spaced from the other opening, as expressed in the claims of record. Mogil discloses an insulating sleeve which fits about a squeezable plastic container, having a cylindrical section. The shortcomings of Mogil have been discussed, at some length, on pages 5-7 of Amendment A, and need not be repeated at this junction.

Beuke, cited in the rejection of claims 4 and 5 in the Office Action of October 6, 2009 does not remedy the shortcomings of Hoffmann and/or Mogil, and does not provide a reason for combining the disparate disclosure of the three patents. Beuke discloses a thermal insulator for a wide range of tubular beverage containers, such as soda cans, juice bottles, etc. The insulator is composed of several elastic panels joined together, but no mention is made of a wine glass, with its bowl, stem, etc.

In summary, not only would a person skilled in the art not reasonably combine the disclosure of Hoffmann with the secondary citation of Mogil, and/or the tertiary citation to Beuke, but even if the combination is made, the resulting device would be a rigid device with an elongate releasable closure means which would not allow the opening to be temporarily enlarged to allow passage for the stem and foot of the glass therethrough and then reduced so that the sleeve so that it receives the glass therein as claimed in the present application. Because the body is rigid, the

opening is not capable of being enlarged and then reduced (emphasis added). The rejection of claims 1-5 should be withdrawn, and the application should be passed to allowance.

If the Examiner believes that a telephone conference, or an interview, would resolve any issue remaining in contest, the Examiner is urged to contact the undersigned attorney at 703.415.0100.

Respectfully submitted,

March 10, 2010  
Date

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Attorneys Docket No.: A-10076.AMC/cat

Translations of relevant parts of Hoffmann (DE29913627):

page 3, lines 22-25:

'According to a further embodiment, the body of the invented temperature regulating device is made from a solid material, for example an insulating material. In this case there is no active cooling (or warming) instead an insulation of the drinking glass body to the outside is ensured.'

page 4, lines 25-27:

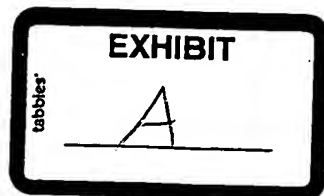
'The body 2 can be solid or can be made with an internal hollow space for the acceptance of coolant or for the preservation of a vacuum. It is also possible to provide a cooling means (not shown) in or on the body.'

page 3, lines 5-8:

'This embodiment has, especially in connection with the cooling of stemmed glasses, proved advantageous, as in this case, the side slot must be provided with only a very narrow width, so that the body can relatively completely surround the body of the drinking glasses.'

page 3, line 27 - page 4 line 2:

'For the manufacturer of the invented temperature regulating device, especially the following materials, that can be used by themselves or in combination, have been found to be adequate, depending on if an insulation effect or a good heat transfer is desired: glass, acrylics, plastics, artificial stone, natural stone, clay, ceramic, porcelain and stainless steel.'





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

**Phillip DONNELLY and Rayna DONNELLY**

Serial No. : **10/580,026**

Group Art Unit: **4128**

Filed : **May 19, 2006**

Examiner: **Kareen Kay Rush**

For : **INSULATING SLEEVE  
FOR A GLASS**

Confirmation No: **7535**

**REQUEST FOR NON-ENTRY OF AMENDMENT B**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1451

Sir:

Amendment B, filed January 4, 2010, was denied entry in the Advisory Action of January 29, 2010. Attorney for applicant requests that Amendment B not be entered, at this time, but that Amendment C, be entered into the record, and considered in due course.

Amendment C presents arguments in support of patentability that duplicate, in large measure, the arguments presented in Amendment B. The claim terminology adopted in Amendment C is somewhat different than the terminology utilized in Amendment B (not entered). Thus, entry of Amendments B and C may lead to duplication, and, inconsistencies.

Kindly enter Amendment C **only**, and deny entry to Amendment B.

Respectfully submitted,

March 10, 2010  
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